

UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:)
)
LAWN AND GARDEN STEEL FENCE) Investigation No.:
POSTS FROM CHINA) 731-TA-1010 (Preliminary)
)
)

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THE UNITED STATES INTERNATIONAL TRADE COMMISSION

In the Matter of:)
) Investigation No.:
 LAWN AND GARDEN STEEL FENCE) 731-TA-1010 (Preliminary)
 POSTS FROM CHINA)
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Wednesday,
 May 22, 2002

Courtroom A
 U.S. International
 Trade Commission
 500 E St., SW
 Washington, D.C.

The preliminary conference commenced, pursuant to notice, at 9:30 a.m., before the Commission Staff of the United States International Trade Commission, LYNN FEATHERSTONE, Director of Investigations, Presiding.

APPEARANCES:

On behalf of the International Trade Commission:Staff:

LYNN FEATHERSTONE, Director of Investigations
 BONNIE NOREEN, Supervisory Investigator
 FRED RUGGLES, Investigator
 IRENE CHEN, Attorney/Advisor
 MARY PEDERSEN, Economist
 CHARLES YOST, Auditor/Accountant
 KARL TSUKI, Commodity-Industry Analyst

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APPEARANCES:

APPEARANCES OF INTERESTED PARTIES:

In Support of the Imposition of Antidumping Duties:
Steel City Corporation

ROBERT HENDRICKS, Vice President
Steel City Corporation

STEPHEN SPEECE, Vice President of Production
Steel City Corporation

MARY B. STRAS, Esquire
Thompson Coburn

MARK PARSONS, Esquire
Thompson Coburn

In Opposition to the Imposition of Antidumping Duties:
Midwest Air Technologies

ADAMS LEE, Esquire
White & Case

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P R O C E E D I N G S

(9:30 a.m.)

1
2
3 MR. FEATHERSTONE: Good morning, welcome to the
4 United States International Trade Commission's conference in
5 connection with the preliminary phase of anti-dumping
6 investigation number 731-TA-1010, concerning Imports of Lawn
7 and Garden Steel Fence Posts from China.

8 My name is Lynn Featherstone. I'm the
9 Commission's Director of Investigations, and I'll preside at
10 this conference.

11 Among those present from the Commission staff are
12 Bonnie Noreen, supervisor investigator; Fred Ruggles, the
13 investigator; Irene Chen, the attorney/advisor; Mary
14 Pedersen, the economist; Karl Tsuji, the industry analyst;
15 and Chip Yost, the auditor and financial analyst.

16 The purpose of this conference is to allow you to
17 present to the Commission, through the staff, your views
18 with respect to the subject matter of the investigation, in
19 order to assist the commission in determining whether there
20 is a reasonable indication that an industry in the United
21 States is materially injured or threatened with material
22 injury, or the establishment of an industry in the United
23 States is materially retarded, by reason of imports of the
24 merchandise which is the subject of the investigation.

25 Individuals speaking in support of and in

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1 opposition to the petition have each been allocated one hour
2 to present their views. Those in support of the petition
3 will speak first.

4 The Chair may ask questions of speakers, either
5 during or after their statements. However, no cross-
6 examination by parties or questions to opposing speakers
7 will be permitted. At the conclusion of the statements from
8 both sides, each side will be given ten minutes to rebut any
9 opposing statements, suggest issues on which the Commission
10 should focus in analyzing data received during the course of
11 the investigation, and make concluding remarks.

12 This conference is being transcribed and the
13 transcript will be placed in the public record of
14 investigation. Accordingly, speakers are reminded not to
15 refer in their remarks to business proprietary information,
16 and to speak directly into the microphones. Copies of the
17 transcript may be ordered by filing out a form which is
18 available from the stenographer.

19 You may submit documents or exhibits during the
20 course of your presentations. However, we will not accept
21 materials tendered as business proprietary. All information
22 for which such treatment is requested must be submitted to
23 the Secretary in accordance with Commission Rule 201-6.

24 Any documents that are letter-size and copiable
25 will be accepted as conference exhibits, and incorporated

1 into the record of investigation as an attachment to the
2 transcript. Other documents that you would like
3 incorporated into the record of investigation should be
4 submitted as or with your post-conference briefs.

5 Speakers will not be sworn in. However, you are
6 reminded of the applicability of 18 U.S.C. 1001 to false or
7 misleading statements, and to the fact that the record of
8 this proceeding may be subject to court review, if there is
9 an appeal. Finally, we ask that you state your name and
10 affiliation for the record before beginning your
11 presentations.

12 Are there any questions?

13 (No response.)

14 MR. FEATHERSTONE: If not, welcome, Ms. Stras;
15 please proceed.

16 MS. STRAS: Thank you; good morning, my name is
17 Marcy Stras. I'm a partner with Thompson Coburn, here in
18 Washington, D.C.

19 It is my pleasure to be here this morning on
20 behalf of the Petitioner, Steel City Corporation, which we
21 believe and everything points to the fact, that they are the
22 last remaining lawn and garden steel fence post producer in
23 the United States.

24 We have two representatives here today from Steel
25 City: Mr. Robert Hendricks, who is the Vice President; and

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1 Mr. Stephen Speece, who is the Vice President of Production.
2 They are both here to present testimony and to answer all
3 your questions, and to show you samples.

4 On May 1st, Steel City filed a petition requesting
5 the imposition of anti-dumping duties on imports of lawn and
6 garden steel fence posts from the PRC. The petition
7 contained information that is central to the Commission's
8 determination in this preliminary phase of this
9 investigation.

10 First, the level of imports from China has
11 increased significantly, whether you use the eight digit HTS
12 number or the ten digit HTS number. We submitted ten digit
13 numbers on May 14th. In fact, the 10 digit numbers show a
14 more dramatic increase, and they are the more specific
15 numbers. From the year 2000 to 2001, the imports of fence
16 posts from China increased by a startling 412 percent.

17 Second, the petition establishes that the imports
18 of lawn and garden steel fence posts from China, and those
19 produced in the U.S., are interchangeable. Customers
20 perceive them as being the same.

21 As Steve Speece will discuss, the Chinese product
22 is identical to the U.S. product. Steve has also brought
23 samples to show you. They are the same. They are
24 identical. There are no product difference.

25 Third, prices are an important fact for

1 purchasers. This is confirmed in the lost sales information
2 in the petition. Bob Hendricks will also provide additional
3 information on the company's many, many attempts to compete
4 with the Chinese prices.

5 The sad truth is that Steel City is no longer even
6 being asked to bid by customers, because they know that
7 their prices are much higher than those from China.

8 Fourth, the petition establishes that as the
9 volume and market share of Chinese imports increased, the
10 condition of the U.S. industry, that is Steel City's health,
11 deteriorated severely.

12 Production, shipments, sales revenues, profits,
13 employment, wages paid, market share, are all down by
14 significant percentages.

15 Unfortunately, the most dramatic changes were in
16 1998, which are now outside the period of investigation.
17 But we left parts of those in the petition to show you that
18 at one time, Steel City was a very, very large producer,
19 before they were pummeled by the Chinese imports.

20 As you all well know, in a preliminary
21 investigation, the Commission must determine whether there
22 is a reasonable indication that a domestic industry is
23 materially injured or threatened with such injury by reason
24 of the subject imports.

25 We believe that the information in the petition,

1 the responses that you're getting from the questionnaires,
2 and the testimony you will hear this morning all demonstrate
3 that this threshold has been more than met in this
4 investigation.

5 Our first witness this morning is Steven Speece,
6 Vice President of Production for Steel City, who will
7 describe the product, a little bit about the industry, and a
8 little bit about the market.

9 Steve?

10 MR. SPEECE: Good morning, my name is Steve
11 Speece. I'm Vice President of Production at Steel City
12 Corporation. I've been there with Steel City for over 25
13 years.

14 As Marcy said, we believe that Steel City is the
15 last U.S. producer of lawn and garden fence posts, and we
16 are struggling to survive against the cheap Chinese imports.

17 Steel City got into the lawn and garden fence post
18 business in the early 1960s, at that time, competing against
19 a company called Utility Products, which made lawn and
20 garden steel fence posts and telephone junction boxes.

21 In the early 1970s, they sold their lawn and
22 garden tooling to a company called Gilbert and Bennet
23 manufacturing, who were our competitors until 1998, when the
24 Chinese imports started to severely affect the market, and
25 Gilbert and Bennett went out of business.

1 Steel City's fence post business continue to grow
2 through these years, and we added a second paint line and
3 banning station, along with an additional warehouse.

4 Steel City has a capacity to make over 14 million
5 posts per year, but due to the Chinese imports, sales have
6 dropped significantly to only a fraction of that amount.

7 There are other U.S. producers of products that
8 are not lawn and garden steel fence posts. These products,
9 which are specifically excluded from the petition, are key
10 posts, farm posts, and sign posts.

11 Lawn and garden steel fence posts are used by
12 homeowners in suburban and rural areas for lawn and garden
13 applications. They are used for pet containment, as tomato
14 stakes, garden protection, property boundaries, sapling
15 supports, safety barriers, and many other home and garden
16 uses.

17 As explained in our petition, lawn and garden
18 steel fence posts weight up to one pound per foot, and are
19 currently made of steel. These posts are normally u-shaped
20 or hat-shaped, in configuration, or any other similar shape,
21 excluding round or square tubing or pipes, and we have
22 brought samples to show you.

23 I've also brought samples of the Chinese lawn and
24 garden imports, so that you can see that they were equal to
25 Steel City posts in every aspect, including size, weight,

1 paint, strength, and quality.

2 We did extensive testing on these posts, when they
3 started to severely undercut our prices in the market, to
4 try to prove them inferior, but we found this was not the
5 case.

6 The posts are made in two different weight
7 classes: light and heavy-duty. Lawn and garden light
8 weight fence posts are normally made of 14 gauge steel, .068
9 to .082 thousandths thick, one and three-quarter inches wide
10 by three foot, four foot, five foot, and six foot long.
11 These posts are normally .45 pounds per foot, and are packed
12 10 per mini-bundle, 400 per master bundle.

13 Heavy duty lawn and garden steel posts are
14 normally made of 13 gauge material, .082 to .095 thousandths
15 thick, three inches wide by five foot, six foot, seven foot,
16 and eight foot long.

17 These posts will normally weight about .90 pounds
18 per foot, a little under one pound per foot, and are packed
19 five per mini bundle, 200 per master bundle.

20 MS. STRAS: We're going to take one second here to
21 show you the posts that we've brought.

22 MR. FEATHERSTONE: You're going to need to take a
23 microphone.

24 MS. STRAS: It's because they're kind of bulky.
25 We're trying to figure out how to show them to you, and the

1 best way is maybe to just walk them to you.

2 What we have here is a Chinese post and a Steel
3 City post. These are the light posts. We wanted to show
4 you that they're basically identical in size, color, and
5 quality. I don't know if I should just walk them down to
6 you. We also brought the heavy posts.

7 So what you have in front of you is an example of
8 a light duty post made by Steel City and a light duty
9 Chinese post; and a heavy duty Steel City post and a heavy
10 duty Chinese post.

11 Please continue, Steve.

12 MR. SPEECE: We also have cut-off samples of
13 those, if you'd like to look at those, as well.

14 As we stated in the petition, Steel City's posts
15 are currently made two different ways. One is by stamping;
16 the other by roll forming.

17 The stamping operation starts out with a steel
18 strip that is already sheared to the proper length and
19 width. Steel City purchases steel already sheared to size
20 and/or in coil form, that is cut to width.

21 For example, a four foot light duty post would
22 start out with a strip of 14 gauge steel, sheared an inch
23 and three-quarters wide by 48 inches long. The strip was
24 placed into a forming dye, where it stamps it into a hat-
25 shaped configuration.

1 The post is then pushed down into the piercing dye
2 by an air cylinder, and an operator inserts an anchor plate
3 into the dye. The anchor plate is the little plate on the
4 bottom, by the way, that goes into the ground.

5 This station punches the holes and lugs into the
6 posts and crimps the anchor plate on. The post is then
7 taken out of the pierced dye, stacked on a buggy, ready for
8 cleaning and painting.

9 In a roll forming operation, it starts out the
10 steel in coil form, slid to the proper width. For example,
11 for light duty post, the coils would be made of 14 gauge
12 steel, by an inch and three-quarter wide.

13 The steel coil is run through a series of rolls
14 that form it into the hat-shape fence post profile. The
15 roll form then uses a flying cut-off, that can be set for
16 any length post, and the form channel comes off the end of
17 the mill, to cut the length ready to pierce.

18 The channel is then placed into the piece dye,
19 along with an anchor plate, and the holes and lugs are
20 punched, and the anchor plate is crimped on. The post is
21 then removed from the dye, stacked on a buggy, ready for
22 painting.

23 After the posts reach this point, they are hung on
24 the paint line, and they go through a washer, where they are
25 cleaned and phosphated before entering a dry-off oven.

1 The next area is a dip tank, which uses water-
2 based air dry paint. After painting, the posts continue on
3 their conveyors, and after the paint dries, they enter a
4 banding station, where the UPC label is automatically
5 applied.

6 At the banding station, an operator removes the
7 posts from the conveyor, stacks them in mini bundles -- ten
8 posts for light duty; five posts for heavy duty -- and then
9 automated banding heads band the ends of the bundles with
10 half inch steel strapping.

11 The mini bundles are then stacked in buggies to
12 form master bundles -- 400 for light duty; 200 posts for
13 heavy duty -- and these are then banded and either shipped
14 to the customer or stacked in the warehouse.

15 We believe that the Chinese production is
16 basically identical to the U.S. production, except for the
17 packaging.

18 I want to address the issue that lawn and garden
19 steel fence posts are not similar to t-posts, farm posts, or
20 sign posts.

21 We do have a sample of the t-post, that we would
22 like to pass around, as well. As you will notice, first
23 off, there are no similarities between the physical
24 characteristics. The posts do not look alike.

25 Lawn and garden posts are hat-shaped or u-shaped,

1 and have tabs for attaching wire to them. Those are the
2 posts that we passed around earlier.

3 Lawn and garden posts also are a lot lighter in
4 weight. As an example, a five foot light duty post weighs
5 2.5 pounds. A five foot t-post would weigh 6.25 pounds. T-
6 posts are also much harder and will break off, rather than
7 bend, like lawn and garden posts.

8 Secondly, there are no similarities in use. The
9 posts are not used for the same purposes. T-posts are
10 heavier and very hard, and they are used for farm or field
11 use, for cattle and horse containment.

12 Lawn and garden posts are used in backyards for
13 pet containment, sapling support, tomato stakes, et cetera.
14 Because they are light weight and the lugs are fastened to
15 wire, they are much more user friendly.

16 Third, lawn and garden posts, t-posts, farm posts,
17 and sign posts are not interchangeable. The customer would
18 not substitute one for another. Residential customers will
19 not use t-posts. They are too heavy, and there is no
20 convenient way to attach the wire. Farmers will not use
21 lawn and garden posts, because they are too light and bend
22 too easily.

23 Several t-post manufacturers, such as Keystone and
24 Northwestern, have bought lawn and garden posts from Steel
25 City to distribute, because it is a different product, which

1 they do not produce.

2 Fourth, there are differences in the way these
3 posts are distributed. The posts are sold to different
4 consumers through different stores. While some retailers,
5 such as Lowes, carry the t-posts and lawn and garden posts,
6 they usually carry only size of t-posts, and many sizes of
7 lawn and garden posts, ranging from three foot light to
8 seven foot heavy.

9 Many farm supply outlets, such as Tractor Supply
10 and Agland, carry only t-posts, because they deal mostly
11 with farmers; while the hardware stores, home improvement
12 stores, and department stores usually only carry lawn and
13 garden posts, because their customers are the homeowners,
14 not farmers.

15 Five, the customer perceives the posts as being
16 different. The customer can see differences in the physical
17 appearance and uses. The customer obviously sees these
18 differences; otherwise, there would be no need for the two
19 types of posts to exist. Farmers cannot live with the
20 reduced strength and increases cost of the lawn and garden
21 posts, and homeowners are willing to pay more for the
22 convenience of user-friendly lawn and garden posts.

23 Six, the lawn and garden posts are not produced on
24 the same or in shared manufacturing facilities, using common
25 production processes and production employees, as the other

1 posts.

2 Key posts are made in this country in steel mills,
3 such as Keystone and Northwestern, and are made by taking
4 railroad rail or other scrap steel, heating it red hot, and
5 forging it into shape, leaving a very strong and hard post.

6 Lawn and garden posts are made in manufacturing
7 plants that take finished steel, in coil or blank form, and
8 stamp a roll form the shape, and then punch the holes and
9 lugs in it.

10 Seventh, there are no similarities in price
11 between the posts. T-posts are much cheaper than lawn and
12 garden posts, because even though they are stronger and
13 heavier, they are made of scrap steel.

14 For example, Lowes' retail pricing is \$1.85 for a
15 six foot t-post; \$4.13 for a six foot lawn and garden heavy
16 duty post; and \$3.22 for a six foot lawn and garden light
17 duty post. Farm posts and sign posts are heavier, thus much
18 more expensive than lawn and garden posts.

19 Thank you for this opportunity. I'd be happy to
20 answer any questions you might have.

21 MS. STRAS: Are you going to reserve your
22 questioning until after they are both done?

23 MR. FEATHERSTONE: (Nods in the affirmative.)

24 MS. STRAS: Okay, our second witness is Robert
25 Hendricks, Vice President of Steel City, who will discuss

1 the pricing in the industry.

2 MR. HENDRICKS: Good morning. My name is Bob
3 Hendricks. I am a vice president of Steel City. Steel City
4 is a family-owned business founded in 1939 by Murray Fibous
5 in Youngstown, Ohio. Today, his son, who is my father-in-
6 law, continues as president and CEO.

7 Originally, Steel City produced wine coolers and
8 beverage dispensers for the bar and restaurant business.
9 However, in 1946, it erected an 8,000 square foot
10 manufacturing facility at our current site, and began
11 producing products using metal fabrication and finishing.
12 Newspaper tubes were added to our production line in 1952,
13 and in 1959, we began producing lawn and garden fence posts,
14 rural mailboxes and miscellaneous hardware products.

15 Lawn and garden fence posts were one of our main
16 product lines for many years. However, today our market has
17 been destroyed by cheap Chinese imports. Our production is
18 decreasing every year to the point where we will have to
19 stop producing fence posts next year if we do not get relief
20 in this dumping case.

21 In the past few years we have lost our major
22 customer, all identified in the petition, to Chinese
23 imports. Although we have tried to compete with imports by
24 trimming our costs and prices, we have been unable to
25 compete with the Chinese prices since the majority are less

1 than our production costs. When the import price is less
2 than our production costs, there is nothing we can do to
3 compete.

4 The only reason we are in business today is that
5 we produce other products. However, we have substantially
6 unused capacity that can be brought on-line to increase our
7 lawn and garden fence post production. We have the
8 equipment, we have the workers. All we need are the orders.

9 Let me give you a brief background in our attempts
10 to compete with the Chinese. In 1997, I attended a meeting
11 at Lowe's, which was one of our major customers, to discuss
12 the 1998 season. We offered Lowe's a five percent rebate
13 from our prices and maintained the business for the '98
14 season. However, we were told confidentially that we would
15 lose the business in 1999 to the Chinese imports because our
16 prices, even with the five percent rebates, were 15 percent
17 higher than Chinese prices.

18 This proved to be true. During the 1999 season,
19 which I will define a season here as really March through
20 June, it's a spring season, we were only used as a small
21 fill-in supplier to Lowe's.

22 By the summer of 1999, we realized the Chinese
23 were hurting our business substantially where quality and
24 delivery were not an issue, so unless we did something and
25 we did quickly we would lose our lawn and garden fence post

1 business.

2 Steve Speece and I mapped out a reorganization
3 plan to reduce our manufacturing and overhead costs plant-
4 wide by \$1.8 million to offset the lost revenue for lawn and
5 garden fence posts. We believe that the plan would allow
6 Steel City to become competitive in the lawn and garden
7 fence post market again, and that we could regain our market
8 share.

9 In the fall of 1999, in preparation for the 2000
10 season, we again met with Lowe's. We offered prices that
11 were 15 to 20 percent lower than our 1998 prices, and once
12 again were told we were 15 to 20 percent high.

13 We also visited a large customer in Illinois where
14 the buyer also told us our new prices were 15 to 20 percent
15 above the Chinese prices. We did not receive any business
16 from Lowe's or the other customer in 2000.

17 In 2000, still not defeated, we applied to the
18 Workers Compensation Safety and Hygiene Division for a grant
19 of \$40,000 and some consulting help to reduce our labor in
20 the manufacturing of fence posts. We received the 40,000 in
21 the spring of 2000. The money was spent building an
22 automatic transfer device to do the work of three people.
23 It was completed and is being used in the factory to this
24 date. We also spent another \$7500 to automate our anchor
25 plate dock. This removed another worker from the profits of

1 making lawn and garden fence posts, and further cut our
2 costs.

3 However, we were still not competitive. Every
4 time we reduce our cost, the Chinese manufacturer in turn
5 reduced their selling price. The problem is the Chinese
6 manufacturers have no bottom to their prices. They are
7 clearly not driven by costs, and intend to capture the whole
8 U.S. market. Thus far we have been successful since we are
9 the last U.S. producer left in the business.

10 In 2001 to 2002, we are continuing to lose our
11 remaining customers. The first customers we lost were the
12 large customers. However, in the past two years the Chinese
13 manufacturers have captured our mid-sized customers and
14 small customers as well. Our volumes continue to fall.

15 In the years 1998 to 2001, we lost 3.4 million
16 posts to the Chinese. If the trend continues, we will lose
17 another 200 to 300 thousand posts this year. By 2003, we
18 will be totally out of lawn and garden steel fence post
19 business.

20 There is no one and nothing that can stop Chinese
21 imports. We believe there is substantially unused capacity
22 in China that can be brought on line. This is a simple
23 industry, and a simple product that is attractive to the
24 Chinese with their unlimited labor.

25 We are here today asking for your help. Thank you

1 for giving me the opportunity to testify, and I will be
2 happy to answer any questions you have.

3 MS. STRAS: That concludes our direct testimony.

4 MR. FEATHERSTONE: Thank you, Ms. Stras.

5 Mr. Ruggles.

6 MR. RUGGLES: Ms. Stras, I have a question on the
7 imports. Can you tell me how you came up with your import
8 numbers, especially when -- let me say that effective July
9 of 2000 is when they changed the number they were using at
10 this point? So how did you get a full year 2000 compared to
11 2001?

12 MS. STRAS: All my numbers came off the ITC
13 website with the attached to the petition, and in my May
14 14th submission copies of the website printout. So if there
15 is a glitch in the numbers, it's because of your website
16 guys.

17 MR. RUGGLES: Well, no, it's not the website.
18 They didn't change the harmonized number until July. It
19 didn't become effective until July of 2000.

20 MR. FEATHERSTONE: Ms. Chen?

21 MS. CHEN: Irene Chen from the Office of General
22 Counsel.

23 Can you please state what your proposed definition
24 of the domestic like product is in this investigation?

25 MS. STRAS: The domestic like product is lawn and

1 garden steel fence posts.

2 MS. CHEN: In your petition you specifically state
3 that the petition covers all posts one pound and under per
4 foot.

5 MS. STRAS: Right.

6 MS. CHEN: Whatever they are called, if made of
7 steel and/or metal.

8 MS. STRAS: Correct.

9 MS. CHEN: Now, are you including tee posts, lawn
10 posts and sign posts that weigh one pound per foot and
11 under?

12 MS. STRAS: We are not -- well, we had a problem
13 when we drafted the definition of the like product in this
14 investigation because we're afraid of evasion.

15 Currently, all lawn and garden steel fence posts
16 are made out of steel. But we are concerned that it is
17 possible to use metal and dilute the steel, and in the
18 future they could be made with steel and metal, and
19 therefore evade any order if we hopefully get an order in
20 this case.

21 We are also concerned that they could make a
22 lighter tee post or another kind of post and try to evade
23 any kind of order. Currently, it is not made. Currently
24 only lawn and garden steel fence posts are made.

25 MS. CHEN: And one pound and lighter?

1 MS. STRAS: Steve can address that. Can you
2 address that?

3 MR. SPEECE: Yeah. On the market now we are not
4 aware of any tee posts that are under one pound per foot.
5 All the posts that are one pound per foot are the lawn and
6 garden U-shaped posts.

7 MS. STRAS: I think our concern is, and, you know,
8 we look for your guidance here as well as Commerce's
9 guidance, if evasion -- if we get an order and then they
10 start making a post that evades our order, then all of this
11 is useless.

12 MS. CHEN: Well, at that point you could bring an
13 anti-circumvention --

14 MS. STRAS: No, I understand that. I understand
15 that.

16 MS. CHEN: -- at that point. Yes.

17 So are you saying that there is no domestic
18 production of tee posts, lawn posts and sign posts that are
19 produced?

20 MS. STRAS: Correct.

21 MS. CHEN: So the only domestic product being
22 produced are --

23 MS. STRAS: Are lawn and garden.

24 MS. CHEN: -- lawn and garden one pound per foot
25 and under?

1 MS. STRAS: Correct.

2 MS. CHEN: So are you saying that the petitioner
3 produces 100 percent of everything covered under your
4 proposed scope that is produced in the United States?

5 MS. STRAS: That's what we are saying. We have
6 not been able to find another producer.

7 MS. CHEN: Another domestic producer of lawn and
8 garden posts?

9 MS. STRAS: Correct.

10 MS. CHEN: Okay.

11 MS. STRAS: Correct.

12 MS. CHEN: Do you produce lawn and garden posts
13 over one pound per foot?

14 MS. STRAS: They do not, and Steve, you can
15 answer. We don't make them over one pound, right?

16 MR. SPEECE: No.

17 MS. CHEN: And you are not aware of any domestic
18 producer that does produce lawn and garden posts over one
19 pound per foot?

20 MR. SPEECE: No. Really, by definition lawn and
21 garden posts are under one pound per foot. The light duty
22 is about half a pound per foot, and the heavy duty is about
23 .9 pounds per foot.

24 MS. CHEN: Now, are any of the lawn and garden
25 fence posts made of steel and/or other metal, I guess any

1 other material, for example, hot-rolled studded tee posts,
2 cold-rolled, or roll formed fence posts that are
3 interchangeable with your products?

4 MR. SPEECE: No. In the Steel City brochure that
5 was attached to your petition, it lists farm and sign posts
6 that appear to look very similar to the lawn and garden
7 posts, they are hat-shaped, they are one pound per foot.

8 Can you address why those posts would not be
9 included in domestic-made products in your post-conference
10 briefs, if you would?

11 MS. STRAS: We will take care of that.

12 MS. CHEN: Okay. Can you please also discuss
13 either here today or post-conference brief what conditions
14 in competition you would like the Commission to consider?

15 MS. STRAS: We'll address that.

16 MS. CHEN: Okay. In your petition you state that
17 sales of fence posts at the retail level rise during the
18 spring of each year.

19 Can you please address the typical business cycle
20 in the sale of steel fence posts in terms of seasonality,
21 and whether that has any effect on prices?

22 MR. HENDRICKS: Given certain weather constraints,
23 typically the season is about March through June, which is
24 everybody putting their garden in, all planting trees or all
25 planting tomatoes or doing a lot of the things that you do

1 with lawn and garden posts. That season, you know, it will
2 vary. It might go from February to May, it might -- if it's
3 a rainy season, it might stretch a little longer, but it's
4 typically a three- or four-month period from March, April,
5 May and June.

6 MS. CHEN: So are most of your orders placed
7 during that time?

8 MR. HENDRICKS: We do most of our shipping during
9 that time. The orders prior to losing our larger customers,
10 we got commitment in October, September, October, November
11 for the following season, which allowed us to produce
12 November, December and January, and into February, and then
13 we would ship our product March through June. That was
14 probably 65 to 70 percent of our product is shipped during
15 those months, in that season.

16 MS. CHEN: And although your customers basically
17 orders when it takes place, is that price firm price or --

18 MR. HENDRICKS: It's a firm price.

19 MS. CHEN: It's a firm price.

20 Can you address the demand of this product during
21 the period of investigation for the last three years since
22 1999? I read in your petition that it stated that the
23 demand has gone up considerably for this product.

24 MR. HENDRICKS: Demand for the product has gone
25 up. I would guess that our assessment of demand going up is

1 the Home Depot, the Lowe's, the Manards, and our customers
2 continuing to grow and grow and grow while past customers
3 continually to grow and grow and grow, and do more stores
4 and do more distribution.

5 MS. CHEN: Okay. In your petition you stated that
6 you -- you give some numbers regarding the imports, Chinese
7 imports and also some numbers for production during the
8 period of investigation, and I noted that the numbers for
9 the Chinese imports were considerably higher than the numbers
10 going into production.

11 Can you reconcile that? Why the numbers for the
12 Chinese imports are so much higher than the production that
13 you are stating that you are the only producer of this
14 product in the U.S.?

15 MS. STRAS: Well, the -- I'm sorry. Could you
16 repeat that question?

17 You are saying that the import volumes are fairly
18 large.

19 MS. CHEN: Right.

20 MS. STRAS: Then their production is down --

21 MR. FEATHERSTONE: Is their --

22 MS. STRAS: -- is that what you said?

23 MS. CHEN: Their production numbers are very small
24 and the increase in Chinese imports is tremendous --

25 MS. STRAS: Correct.

1 MS. CHEN: -- based on your numbers.

2 Are you saying all of this is due to the increased
3 demand during the period of investigation?

4 MS. STRAS: That's what we believe.

5 MR. SPEECE: Gilbert and Bennett, which was
6 alluded to in our report, there was Steel City and there was
7 Gilbert and Bennett, and we were the two big manufacturers.
8 In the middle of all of this and us losing our business,
9 Gilbert and Bennett went bankrupt, which presented another
10 big hole in it.

11 So the import numbers came way up to fill that,
12 though our numbers continued to fall as well.

13 MS. CHEN: Okay. Did anyone else go out of
14 business during that -- during that time, during the period
15 of investigation besides Gilbert and Bennett?

16 MR. SPEECE: In the petition there was another
17 producer, I believe, in California, that went out of
18 business. Actually, it was before the period covered in
19 this petition though.

20 MS. CHEN: Do you know when that would be?

21 MR. SPEECE: It was prior to 1999, I know that.

22 MS. CHEN: Are there any quality issues regarding
23 Chinese imports and domestically produced fence posts?

24 MR. SPEECE: No. If you look at the samples, they
25 are very typical. You know, we obviously tried to use that

1 to our advantage when you are starting to lose business, but
2 really they have done a very good job of copying us, and the
3 quality issues are really not there.

4 The first year there was delivery issues. That's
5 why we ended up doing some work for a company, but they got
6 that straightened out after the first year or two, and they
7 haven't had any of that in the last two years.

8 MS. STRAS: Bob wants to add some more to that.

9 MS. CHEN: Sure.

10 MR. HENDRICKS: I stated in '97, when we went down
11 to Lowe's to talk to them about the '98 season, that they
12 did let us keep the '98 season, they were beginning to
13 experiment with imports. And when they told us
14 confidentially that we would probably lose the business in
15 '99, they also told us that we were keeping it in '98
16 because they were concerned about quality and delivery.

17 At the end of '98, they were not concerned about
18 quality and delivery anymore and we lost all the business.

19 MS. CHEN: Okay. So besides price, are there any
20 other factors that purchasers consider in making a decision
21 to buy either Chinese imports or your product?

22 MR. HENDRICKS: No.

23 MS. CHEN: Are nonsubject imports an issue here?

24 MS. STRAS: We are not aware of any other major
25 producers. We know Mexico makes some, but they are not a

1 major producer.

2 MS. CHEN: Are there any other substitutes for
3 lawn and garden fence posts made of steel and/or metal?

4 MS. STRAS: There are none.

5 MS. CHEN: If you are operating at full capacity,
6 well, we just spoke about the large number of Chinese
7 imports, even if you were operating at full capacity, aren't
8 imports still necessary?

9 MS. STRAS: We don't believe so. We are not 100
10 percent convinced that those HTS numbers are totally sure,
11 and only contain lawn and garden steel fence posts. So I
12 want to caution on that. But aside from that, as Bob and
13 Steve can tell you, their production capacity -- they can
14 increase their production capacity overnight, and sell to
15 the market as they once did.

16 MS. CHEN: So you are saying then that if you were
17 able to operate at full capacity there would be no need for
18 imports in the domestic market?

19 MR. HENDRICKS: That's right. We do not believe
20 there would be any need.

21 MS. CHEN: Can you describe in further detail how
22 you compete with China's suppliers of this product? Is
23 there some sort of bidding process, or do you bid directly
24 with the companies and speak with them? Can you describe in
25 further detail?

1 MR. HENDRICKS: We would sit down with a buyer at
2 Lowe's and present pricing, and I would assume that our
3 competitors or anybody else trying to get the business would
4 do the same thing.

5 And from there Lowe's would make their decision on
6 who they wanted to purchase. I mean, we would show them our
7 posts. Our competitors would show their posts to make sure
8 we're talking apples to apples. But it would come down to
9 the price issue.

10 MS. CHEN: And so there is a transparency of
11 prices in the market, I mean, what Chinese suppliers charge
12 versus what you charge?

13 MR. HENDRICKS: When you say "transparency"?

14 MS. CHEN: Do you know what the Chinese suppliers
15 are charging when you go in and you make your offer?

16 MR. HENDRICKS: Depending on the buyer and
17 depending on the location. In relationships sometimes we
18 are told -- I mean, we were told that we were 15 to 20
19 percent high, and we knew what our operations were when we
20 walked out, so we could obviously get to those numbers,
21 which is why we went back and tried to reduce our costs to
22 get to those numbers.

23 MS. CHEN: Would you like to add something? Okay.

24 You mentioned in your testimony the efforts of
25 your company to reduce the cost of goods. Have you planning

1 to make any further cost-cutting?

2 MR. HENDRICKS: No. I mean we've kind of hit the
3 critical mass. And when we put the plan together we went
4 back and cut everything back. We did some automation. We
5 have basically cut about as many people out of there and
6 still remain functional. If we were forced to go back and
7 try and take another 15 to 20 percent out, we would be
8 nonfunctional in the fence post manufacturing, which is
9 where we will be by next year.

10 MS. CHEN: Can you address how your capacity, the
11 way it's been allocated; is it allocated to other products
12 that you produce? And you can certainly address this in
13 your post-conference brief.

14 MR. HENDRICKS: We manufacture other products, and
15 we have -- our workforce has been great. We reduced and we
16 transferred those people between other products. And when
17 we have to make fence posts, we move the people to the fence
18 post production. And when it's not being used, the
19 equipment sits idle.

20 MS. CHEN: Also in your petition, it appears that
21 your production went up from 2002 -- from 2001. Can you
22 address why?

23 MR. HENDRICKS: That -- that was because we were
24 using up our inventory there. If you look at our sales, our
25 sales did not go up. We would use up the year before, you

1 know, inventory we had sitting there, and we wanted to
2 maintain a lower inventory level. So the sales went down
3 each year even though the production went up that one year.

4 MS. CHEN: How much of a negative impact has the
5 Chinese imports had on your ability to raise capital, if
6 any?

7 MS. STRAS: We will address that in the post-
8 conference briefs, and some of that is confidential
9 information.

10 MS. CHEN: Sure. And if -- feel free to address
11 any of the impact factors either today in the post-
12 conference briefs.

13 Thank you. Nothing further.

14 MS. STRAS: Thank you.

15 MR. FEATHERSTONE: Mr. Pedersen.

16 MS. PEDERSEN: I am Mary Pedersen from the Office
17 of Economics, and I have a few questions.

18 The first one is I'm just trying to sort of
19 understand the like product a little bit better. Would
20 grape stakes, for instance, be included in lawn and garden
21 steel fence posts?

22 MR. SPEECE: No. We don't -- actually lawn and
23 garden steel fence posts do not quality for grape stakes.
24 They are not heavy enough. Grape stakes need to be heavier,
25 usually longer. In fact, we made a couple attempts to sell

1 those people over the years, and are unsuccessful because
2 they just would not hold up.

3 MS. PEDERSEN: Okay. So they are heavier and --

4 MR. SPEECE: Grape stakes were heaving.

5 MS. PEDERSEN: Were heavier, okay.

6 Okay, are there any non-metal products which would
7 be substitutes for lawn and garden steel fence posts, such
8 as wood or plastic? And if so, how frequently does that
9 type of substitution occur?

10 MR. SPEECE: I really have not seen that.

11 MS. PEDERSEN: Okay. So you don't feel like you
12 are competing against anything else?

13 MR. SPEECE: No.

14 MS. PEDERSEN: Okay. You talked a little bit
15 about demand over the period of investigation. What are the
16 indications for demand for the next several years?

17 MR. HENDRICKS: Demand has continued to drop this
18 year, and I guess by next year it is our belief that we will
19 not be -- there will not be sufficient demand to merit
20 keeping that equipment.

21 MS. STRAS: I think Bob understood this as a
22 demand for their product --

23 MS. PEDERSEN: Yes, I --

24 MS. STRAS: -- not the overall market demand, and
25 I think you are asking about overall market demand.

1 MS. PEDERSEN: Yes.

2 MS. STRAS: Yes.

3 MS. PEDERSEN: Sorry. The demand is increasing
4 while the demand for their products are decreasing?

5 MS. STRAS: I'll let Bob respond.

6 MR. HENDRICKS: I would just reiterate that I
7 would believe that if the market continues, and we continue
8 to build more houses, and the housing starts, and you know,
9 we continue to grow as a country, there is going to be more
10 back yards and more gardens and more need.

11 MS. PEDERSEN: Okay. Thank you.

12 One more question. You mentioned that you have
13 engaged in cost savings and other practices to try to
14 compete against the Chinese imports.

15 In light of these statements, how should the
16 Commission, and you may want to address this in your post-
17 conference brief, how should the Commission analyze the
18 price data that you submitted, the quarterly price data in
19 Section 4(a) of your Commission questionnaire?

20 MS. STRAS: We will address that in the brief.

21 MS. PEDERSEN: Okay. Thank you.

22 MS. STRAS: Sure.

23 MS. PEDERSEN: No more questions.

24 MR. FEATHERSTONE: Mr. Tsuji.

25 MR. TSUJI: This is Karl Tsuji, Office of

Heritage Reporting Corporation
(202) 628-4888

1 Industries. I have a couple questions. First, describe the
2 distinction between these lawn and garden steel fence posts
3 and what are oftentimes referred to as highway sign posts.

4 MR. SPEECE: Are you referring to the posts that
5 actually would hold like a stop sign?

6 MR. TSUJI: Yes.

7 MR. SPEECE: Those posts are very heavy. You
8 don't notice that when you drive by them, but most of those
9 posts, they're forged. They're made the same way the t-
10 posts are made, and those posts weigh over four pounds a
11 foot. Those are normally eight, nine, ten feet long.

12 They are very heavy, very different market. Those
13 posts, they are really not even sold in retail stores or to
14 regular consumers. They're sold to states and
15 municipalities, things like that.

16 MR. TSUJI: Okay, thank you, and my other question
17 is, does Buy America or Buy American provisions have any
18 impact on the marketing of this product?

19 MR. SPEECE: It really does not, no; and
20 unfortunately, name recognition doesn't, either. I mean,
21 the fact that it's Steel City or, you know, it's produced in
22 China, doesn't seem to have any effect.

23 MR. TSUJI: Okay, thank you.

24 MR. FEATHERSTONE: Mr. Yost?

25 MR. YOST: I have no questions, thank you.

1 MR. FEATHERSTONE: Ms. Noreen?

2 MS. NOREEN: I'm Bonnie Noreen with the Office of
3 Investigations. The farm and sign posts that you make, they
4 are -- and this is a question -- are they over one pound per
5 foot? It looked like, from the brochure, that they would
6 be.

7 MR. SPEECE: We do not produce those any more.

8 MS. NOREEN: They're in your brochure, but you
9 don't product them; you buy them from somebody else?

10 MR. SPEECE: No, no.

11 MS. NOREEN: So even though they're in your
12 brochure, you don't make them?

13 MR. HENDRICKS: Farm and sign posts for us was a
14 bad experiment. We tried very hard to make a farm and sign
15 post and expand our market, and use the equipment we had.

16 When we tried that, we didn't have big enough
17 equipment. When we went to steel that was soft enough to
18 work in our equipment, we didn't make farm and sign posts
19 that were strong enough. So we did this for a couple of
20 years, and we took our lumps and we went home.

21 What we produced was a post that weighed over a
22 pound a foot. But because we used such soft steel, if you
23 tried to put a stop sign on it, and you put it out in the
24 wind, the wind would have corkscrewed the thing.

25 As Steve states, these are very much forged posts,

1 and they are much harder, and they're like a t-post, and
2 they are designed to be very stiff. They will actually
3 break if you hit them.

4 Whereas, if you took a post that we stamp or roll
5 from, you know, you can twist them and bend them. I can
6 take a five foot post and bend it over my knee.

7 If you tried to take a farm and sign post, and
8 bend it over your knee, if it was made properly, you would
9 break your knee. In our case, ours would twist and
10 corkscrew, so we got out of that.

11 So it shows in our literature, but it was a bad
12 experiment to try and use equipment in our facility, and
13 stretch it way beyond what it was capable of doing.

14 MS. NOREEN: So when did you produce these?

15 MR. SPEECE: To the best of my recollection, we
16 got into that about four or five years ago.

17 MS. NOREEN: And you got out when?

18 MR. SPEECE: Really, the last time we produced
19 them has probably been a year and-a-half ago, two years ago.

20 MS. NOREEN: So you would have had some production
21 and some sales during the period of investigation then, in
22 the two year period?

23 MR. SPEECE: We still have a very large inventory,
24 which is why it continues to be in our literature.

25 MS. NOREEN: Okay.

1 MR. SPEECE: We have not found takers for them.
2 Like I say, they fail as farm and sign posts.

3 MS. NOREEN: Okay, I would just ask that this is
4 recorded in your questionnaire response, please; the farm
5 and sign post production, sales, inventories, allocations to
6 employment -- whatever you can do.

7 Do you make any kind of t-posts?

8 MR. SPEECE: No.

9 MS. NOREEN: None?

10 Back to this question that Mary had referred to,
11 these grape posts or grapevine posts or whatever, you have
12 some familiarity with them, because you tried to make some
13 yourself.

14 MR. SPEECE: Well, we tried to really use our
15 existing posts for that purpose.

16 MS. NOREEN: For that application.

17 MR. SPEECE: We had to actually ship some to some
18 of the users, but it just was not heavy enough. We never
19 actually tried to produce one for that purpose. We just
20 tried to use what we had.

21 MS. NOREEN: Okay, so you've seen the existing
22 ones --

23 MR. SPEECE: No, I haven't.

24 MS. NOREEN: You haven't? So you have no
25 knowledge of whether they're over or under one pound?

1 MR. SPEECE: Oh, they definitely would be over one
2 pound, because ours were not heavy enough.

3 MS. NOREEN: Is there seasonality in the farm and
4 sign post business, like there is in your business?

5 MR. HENDRICKS: There may be. Obviously, in
6 northern regions, where the ground is frozen and you can't
7 pound a post in, in January or February or December. But I
8 would tell you it's a much more balanced market. If you
9 have to put a stop sign up, you have to put a stop sign up.
10 You know, obviously, there's planning seasons, you
11 know, and there are seasons when you turn your livestock out
12 into fields, when you want to build fences, that may reflect
13 that. We don't have a great deal of knowledge in that.

14 MS. NOREEN: The company, Gilbert and Bennett,
15 that was your competitor until they went out of business,
16 they went out of business, I believe you said, in 1998. Is
17 that correct?

18 MR. SPEECE: Yes.

19 MS. NOREEN: So it was before the period of
20 investigation?

21 MR. SPEECE: Yes.

22 MS. NOREEN: So you're the only producer during
23 the period of investigation, to the best of your knowledge?

24 MR. SPEECE: Yes.

25 MS. NOREEN: At least, of these u-shaped

1 MR. SPEECE: Yes.

2 MS. STRAS: To the best of their knowledge, they
3 are the only producer of lawn and garden steel fence posts.

4 MS. NOREEN: Okay, how big was this Gilbert and
5 Bennett, when they were in the business, compared with you?

6 MR. SPEECE: Gilbert and Bennett was a big
7 company. They had about nine plants. I think their total
8 sales was over \$100 million in sales, because they made a
9 lot of different items.

10 They made the steel lawn and garden fence posts.
11 They were really big in wire -- all different types of wire
12 -- chicken wire, vinyl coated wire, galvanized wire.

13 They carried the wood fence. They made wooden
14 snow fence. They had two factories that strictly made the
15 wood fence. They made the border fence that went around
16 your flower garden and things like that.

17 So they were actually a bigger company than us, if
18 you looked at them overall. I don't really have a
19 breakdown, as far as exactly what their fence post sales
20 were, versus the sales of the wire and other products.

21 MS. NOREEN: But in terms of where you were
22 competing with them, which is the lawn and garden fence
23 posts, did you think they were a bigger company than you or
24 a smaller company than you?

25 Let me tell you the reason I'm asking this. I'm

1 just curious as to, you say you can supply the entire market
2 -- so that's not only the Chinese imports that are coming
3 in, but also the Gilbert and Bennett going out of business.

4 But you feel the capacity that you have in place
5 right now would be adequate to supply the entire market. Is
6 that correct, or would you have to put more machines in?

7 MR. HENDRICKS: My feeling on how big Gilbert and
8 Bennett was, when the two of us were going head to head,
9 they were probably supplying 60 percent of the market. We
10 were probably supplying 40 percent of the market. We ran a
11 single shift to supply that 40 percent of the market.

12 In season, we would bump that to two shifts; but
13 when Gilbert and Bennett went down, as Steve spoke, we built
14 another band or set another paint line up, ready to do this,
15 because we thought we were going to go get that business
16 when they went away, and it didn't happen. So we are
17 sitting on massive amounts of capacity, and lots of extra
18 shifts, to be able to produce that.

19 MR. SPEECE: We also have a lot of warehouse
20 space, too. We actually can store well over one million
21 posts in our warehouse. We used to build that up for the
22 season coming up. So, you know, that's another thing that
23 we can do. We actually build stock in the off season, for
24 the season.

25 MS. NOREEN: Since your product is so seasonal,

1 with essentially all of your sales in the first half of the
2 year, you would say, right, or virtually all of them, would
3 the same thing be true of imports? Would imports be
4 entering in the first part of the year, rather than in the
5 last part of the year?

6 MS. STRAS: Excuse me, if you could give us one
7 second.

8 The problem we have in responding to your question
9 is, we don't know how many of the imports are going to
10 warehousing, and how many are going to the actual stores.
11 So we assume that a lot of them are going to warehouses.

12 MS. NOREEN: So you wouldn't think that it would
13 be as seasonal as yours would be then?

14 MR. HENDRICKS: I don't think the selling season
15 or when the stores want them in the store changes. But how
16 they stock that is, we don't know.

17 MS. STRAS: We don't know.

18 MR. HENDRICKS: I guess that would be at their
19 discretion.

20 MS. NOREEN: Right.

21 MS. STRAS: We assume that they're coming from
22 warehousing, and that the warehouse is stocked for the
23 season, which is what they do. They stock a massive
24 warehouse, waiting for the season. But that's conjecture.

25 MS. NOREEN: Okay, thank you very much. I have no

1 more questions.

2 MR. FEATHERSTONE: Okay, thank you both very much
3 for responding to our questions, and Ms. Stras for your
4 testimony.

5 Mr. Lee, do you need a break here?

6 MR. LEE: (Shakes head in the negative.)

7 MR. FEATHERSTONE: Okay, well, we'll just move
8 right into the next group.

9 MR. LEE: Good morning, my name is Adams Lee. I'm
10 with the law firm of White & Case, here today on behalf of
11 Midwest Air Technologies, Incorporated, who is a U.S.
12 importer of fence posts from China, that are subject to this
13 investigation.

14 This is, in many ways, a very simple little case
15 for a simple little product. This is a distinct departure
16 from many of the cases that the Commission has been looking
17 at this year; mainly the steel 201 cases. This is
18 expeditiously smaller than that case.

19 But still, the concerns are still focused on the
20 basic statutory criteria: what are the conditions of
21 competition relevant to this industry; what are the volume
22 impact of subject imports; are they significant?

23 Let's look at price. Are there significant
24 adverse price effects caused by the subject imports; and
25 third, most importantly, is there a causal connection

1 between the subject imports and the condition of the
2 domestic industry?

3 This petition raises many issues, because in many
4 ways, it is incomplete on all three counts: volume, price,
5 and impact. But nevertheless, even notwithstanding the
6 shortcomings of the petition we feel that there is enough
7 record evidence before the Commission that would warrant a
8 negative determination at this stage of the investigation.

9 So I would like to go through some of the various
10 points, and indicate why we believe that the Commission
11 should vote negative in this case.

12 First of all, the Commission staff has raised
13 many, many questions about the like product definition. On
14 the ITC questionnaires, I was surprised to see that there
15 were actually specific questions asking the parties to
16 address the criteria to determine whether the like product
17 should be broader than what the Petitioners have requested.

18 The ITC practice is to look for clear dividing
19 lines between products. I think Petitioners' like product
20 definition raises many, many concerns, because the criteria
21 that the ITC looks at, it is not obvious that there are such
22 clear dividing lines.

23 I think the Petitioners have focused on the one
24 pound per foot, as a clear dividing line. But physical
25 characteristics is but one criteria.

1 If you look at an other criteria, end use, I think
2 that is a criteria that weighs in favor of adding additional
3 like products. Fundamentally, a fence post is used to hold
4 fences. It doesn't matter if you're holding out or in
5 cattle, kids, dogs, pests.

6 I would say that kids and dogs are probably more
7 wild and rambunctious than cattle, and so the uses for a
8 lawn and garden fence may actually need to be heavier duty
9 than a cattle fence.

10 Another concern noted, I think Petitioners have
11 acknowledged that in terms of the like product, the weight
12 issue is a fuzzy line. They have acknowledged that t-posts
13 could be made so that they are less than one pound per foot.

14 The flip side of that is that u-posts also could
15 be made to be heavier than one pound per foot. So the fact
16 that this one pound per foot is a moving target suggests
17 that this is not a clear dividing line that is adequate to
18 delineate a separate like product.

19 Similarly, the idea that they've identified metal
20 as the category, although they recognize that steel is
21 currently the only material that is used for u-posts, they
22 acknowledge that other metals could be used.

23 They don't identify whether plastics or wood or
24 other materials similarly could be substituted in, at a
25 later stage.

1 Another category of product that has not been
2 discussed yet this morning is the fact that the subject
3 merchandise definition specifically excludes fence posts
4 that are made of rounded tubes.

5 Those products, welded tubes, are used as fence
6 posts, but those products are currently subject to the
7 Commission's investigation in the Standard Welded Pipe From
8 China case, that is currently in the final stages. I
9 believe hearing and briefing has been submitted for that
10 particular investigation.

11 I would like to note that for Welded Pipe from
12 China, the Department of Commerce has recently issued their
13 final determination in that case. At least two Chinese
14 producers of significant volume have received de minimis
15 margins.

16 I believe that a number of those producers are
17 selling welded pipe as fence posts. So the volume of welded
18 pipe used as fence posts in lawn and garden applications,
19 that category of welded pipe used as fence posts probably
20 should be considered as a non-subject factor that could be
21 substitutable, and would have an impact on the supply and
22 demand conditions, relevant to this case.

23 Nevertheless, I've said a lot about the like
24 product definition. But I do wish to say for the record
25 that we do not challenge the like product definition at this

1 stage, because we feel that it is not necessary.

2 We recognize that challenging the like product
3 definition generally requires the Commission to go out and
4 get more information about the like product definition; to
5 go find information from the t-post producers; from the
6 other potential producers. That almost automatically
7 requires a final investigation.

8 We feel that such an inquiry is not necessary,
9 because even if you take the like product definition, as it
10 has been narrowly defined by Petitioners, we still feel that
11 you can ignore all the t-posts, you can ignore all the farm
12 posts and sign posts out there, and the case still should go
13 away.

14 The Petitioner just has not proven the required
15 element that there is a significant volume impact; that
16 there is a significant price impact; and that the subject
17 imports themselves are the direct cause of any injury
18 suffered by the domestic industry.

19 We believe that the record shows that there is
20 actually no increase in the volume of subject imports over
21 the POI. Petitioners, themselves, have admitted that there
22 have been no price decreases. They are complaining that
23 prices have remained artificially stable, I believe, is the
24 term that they used.

25 We feel that Petitioners have assumed a causal

1 link, where there is none. They are complaining that the
2 mere presence of subject imports in this market is causing
3 their condition, but they have not actually spelled out --
4 they have not examined the key market conditions that are
5 driving this market segment, and we feel that a closer
6 examination of the market conditions will indicate that
7 imports cannot be held responsible for the Petitioner's
8 condition.

9 Turning to the issue of volume, we believe that
10 Petitioners have not satisfied their burden of proving that
11 the volume of subject imports is significant, either in
12 terms of absolute volume or market share.

13 First and foremost, Petitioner has failed to
14 identify what is the total market for u-posts. They have
15 offered basket categories of the import statistics, but they
16 have not offered a number, what is the total consumption of
17 this narrowly defined u-post market.

18 Based on our conversations with MAT, they feel
19 that the U.S. market is no more than \$10 million, maybe \$12
20 million to \$15 million, at the very, very most.

21 When they first saw the import statistics showing
22 that there was a range of \$167 million to \$263 million, they
23 laughed. They said there's no possible way that there's
24 that much volume of u-posts being bought out there.

25 It's u-posts. You know, it's lawn and garden

1 fence posts. No one is going to be buying \$263 million of
2 that product, on top of whatever the domestic producers are
3 selling.

4 Fundamentally, the Petitioners' share of the U.S.
5 market has been small and insignificant, and there's no
6 record evidence that during the POI, Petitioners' share of
7 the U.S. market has actually decreased by reason of the
8 subject imports.

9 Second, in terms of absolute import volumes, the
10 record is equally opaque as to the volume of subject
11 imports, as narrowly defined by the Petitioner.

12 Petitioners have admitted that the HTS categories
13 are not pure; that they must be taken with a grain of salt,
14 because they are essentially a heading that covers other
15 articles of iron or steel, fence posts with corrugations,
16 knobs, stubs, notches, and protrusions, with or without
17 anchor plates.

18 This definition does not differentiate between
19 posts that are one pound per foot or less or more. It does
20 not identify what are the other articles of steel. It is a
21 basket category that includes u-posts, t-posts, and other
22 sundry articles of steel.

23 In response to the Department of Commerce's
24 clarification, Petitioners have filed data for a 10 digit
25 HTS number. The Commission staff has recognized that this

1 new 10 digit number, 7326908535, came into existence only in
2 July, 2000.

3 So as a result, the numbers that are generated
4 from the 10 digit number are (a) incomplete, because they
5 only cover a partial year of 2000; and (b) it doesn't
6 account for the fact that importers were probably caught
7 unaware, or were misfiling for a period of time, imports
8 between the old eight digit category and the new 10 digit
9 category.

10 When you look at the eight digit category, it does
11 look like those numbers may be distorted by the presence of
12 t-posts and other articles of iron and steel.

13 Petitioners have said that, well, u-posts are
14 basically going to follow the same general trend as all of
15 the other products. We are not convinced of that, because
16 we feel that there may be certain factors as to why t-posts
17 or other articles of steel, within that basket category, may
18 have increased, while the u-posts may have actually been
19 stable or even declining.

20 Given the fuzziness of the HTS categories. We
21 feel that the HTS categories are an insufficient basis to
22 establish that there is a significant volume of imports or
23 that there is a significant increase of subject imports.

24 Fundamentally, the imports stats are not a
25 reliable basis for the ITC's determination. Instead, we

1 urge the Commission to rely on the questionnaire responses
2 that they received from the market, because the
3 questionnaires have been defined very carefully, to
4 differentiate U post, as defined by petitioners, and T post
5 and other products.

6 In light of the serious deficiencies in the volume
7 data, we believe that the record evidence fails to support
8 petitioner's claim that the subject imports are significant
9 or that they've increased significantly. Petitioner has
10 merely pointed to a basket category of admittedly flawed HTS
11 category, that includes non-subject imports. We believe
12 that the questionnaires responses will show that the subject
13 imports, as narrowly defined by petitioner, will reflect
14 steady import volumes over the entire POI and, thus, there
15 are no adverse volume effects caused by subject imports.

16 Turning to price, petitioners acknowledge that
17 prices of imports have remained stable and have not
18 decreased. This is unusual from most of the cases that the
19 Commission sees, because, usually, you see plummeting prices
20 and, thus, that's the cause of injury.

21 In this case, petitioners are merely complaining
22 that the average unit values for import U post have remained
23 artificially flat. The complaint, I think, falls a bit --
24 doesn't resonate well, because it seems to be alleging that
25 it feels that U post prices are entitled to a steady

1 increase in price year after year. It doesn't make sense
2 for a simple product like fence post. There aren't bells
3 and whistles that you can add new innovations that would
4 warrant an increase in price. A fence post is essentially
5 still a fence post. It's not going to change from year to
6 year.

7 Accordingly, stable prices are -- should be the
8 norm. They -- stable prices reflect stable supply
9 conditions that correspond with stable demand conditions.

10 The ITC has recognized that underselling, by
11 itself, is not sufficient to establish the existence of
12 adverse price effects. Several factors may explain why
13 imports undersell the domestic product. And this is a key
14 market condition that, I thin, the petitioners have
15 overlooked.

16 For instance, imports that are sold to home
17 centers, like Home Depot, Lowe's, Menards, are sold at much
18 larger volumes than smaller customers, your mom and pop
19 hardware stores. Thus, the unit volumes for these larger
20 volume sales would naturally be lower than the unit values
21 for smaller volume sales to smaller customers. Given that
22 our customer -- our client sales are primarily to home
23 centers, you would expect that the prices are going to be
24 lower than the prices offered by the petitioner.

25 Another factor affecting prices are items such as

1 material and transportation costs. As the ITC is well
2 aware, probably more than it desires, steel has been hotly
3 contested and over 2001 and, in particular, 2002, the steel
4 market has seen an increase. It has seen a recovery.
5 Prices have gone up.

6 Petitioners, this morning, have not addressed how
7 steel costs have affected their cost of goods sold and how
8 their financial performance has been affected by the steel
9 market. We urge the Commission to ask the petitioners to
10 report a little more detail about their steel suppliers and
11 how steel prices have affected their operations.

12 Similarly, ocean freight, I think, is a factor
13 that affects the import prices. Ocean freight prices saw
14 decline in 2001, which would correspond to a slight decrease
15 in U post prices from China.

16 Turning to the condition of the domestic industry
17 and whether there's a causal link between subject imports
18 and the condition of the domestic industry, we believe that
19 the petitioners have glossed over several conditions of the
20 U post market. I'd like to first address the petitioner's
21 allegation that imports caused the closure of the other U.S.
22 producers of U post prior to the POI. They identified
23 Gilbert and Bennett and the Blue Island, Illinois facility,
24 and Western Metals and Manufacturing in San Leandro,
25 California.

1 With regard to Western Metals, we were not able to
2 find any information on this company. But, we were able to
3 find on the Internet another company called Steel City
4 Corporation, that happens to be located, also, in San
5 Leandro, California. This company identifies steel products
6 as among the products that they produce. It is unclear
7 whether this company is merely coincidentally named the same
8 as petitioner or whether petition has somehow merged,
9 acquired, or somehow affiliated with this company that is
10 located in San Leandro, California. That could be the
11 formally named Western Metals and Manufacturing Company. We
12 urge the Commission to look into that, to see if there is
13 some sort of connection with regard to those two companies.

14 With regard to G&B, Gilbert and Bennett, it's
15 important for the ITC to understand the full story about why
16 Gilbert & Bennett went bankrupt in 1998. Petitioners have
17 acknowledged that Gilbert & Bennett was definitely the
18 larger of the two U.S. U post manufacturers. Petitioners
19 have also acknowledged that Gilbert & Bennett also produced
20 a far broader product line. They are producing wire, wire
21 fencing, wood fencing, a much broader product mix. And they
22 were the ones, who were traditionally selling to the home
23 centers, such as Home Depot, Menards, and Lowe's, not Steel
24 City.

25 As to why Gilbert & Bennett went bankrupt,

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1 petitioners have not identified that Gilbert & Bennett was
2 facing significant environmental compliance costs. They --
3 of the nine facilities within Gilbert & Bennett, at least
4 three were subject to either CERCLA or RCRA claims for toxic
5 waste sites and the cost for cleaning up these toxic waste
6 sites, I think, was the overarching cause that caused
7 Gilbert & Bennett to go bankrupt, not subject imports.

8 In October 1998, the Department of Labor
9 specifically denied a trade adjustment assistance claim
10 filed by the workers at the Gilbert & Bennett facility at
11 Blue Island, Illinois, because the Department of Labor
12 determined that increased imports did not contribute
13 importantly to worker separation at the firm. The Federal
14 Register cite for that determination is October 9, 1998, at
15 63 Federal Register 55494. And the trade adjustment case
16 number is TA-W-34709.

17 So, there is indications that Gilbert & Bennett
18 was not pushed out because subject imports, but because of
19 matters totally unrelated to subject imports. Environmental
20 concerns cannot be equated with underselling or adverse
21 competition from the subject imports.

22 So, that seems to indicate, well, why are the
23 subject imports here. The fundamental fact is that the U
24 post market is demand driven. When you have the big
25 players, like Home Depot and Lowe's, you go into a Home

1 Depot and you see, my God, you have thousands of product
2 here and their mantra is, you know, we are going to be your
3 do-it-yourself home center and we will supply all your
4 needs, from nuts, to bolts, to, you know, rakes, to power
5 saws, to fence posts, to everything else under the sun that
6 you'll need.

7 Given the size of Home Depot and Menards, they are
8 the ones that control the market power. They are the ones,
9 who can dictate the sales terms over the U post suppliers.
10 It would be absurd that a U post supplier could say, hey,
11 Home Depot, I'm increasing my prices; take it or leave it.
12 Given the volume that Home Depot and Lowe's and Menards
13 demands, it is unreasonable for a supplier to have that kind
14 of control over pricing.

15 Fundamentally, home centers will look at price,
16 but home centers will also look at other factors totally
17 unrelated to price, in making their purchasing decisions.
18 For example, product mix, given the range that Home Depot
19 carries, in terms of the products, they carry all types of
20 lawn and garden products. They carry many types of fencing.
21 They carry many types of fence posts. They probably carry
22 all the grape stakes and everything else that has been
23 raised as a potential like product.

24 Home Depot will likely choose a few suppliers, who
25 can provide a broader range of high quality products, rather

1 than choosing a -- rather than choosing a larger number of
2 suppliers, who can provide only a limited product range for
3 -- who can only -- provide only limited product range. This
4 is just a more efficient way of doing business for Home
5 Depot.

6 The petitioner produces and sells fence post, but
7 it appears that petitioner does not produce fencing to go
8 with the fence post. I noted that the catalogue includes
9 some vinyl coated fencing in the Steel City brochure, but I
10 did not see anywhere else in the petition, that petitioners
11 were actually producing that product. Given that
12 petitioners have said that the brochure also contains other
13 material that they don't actually produce or sell, I believe
14 that it is -- that petitioners are not producers of wire
15 fencing for the product.

16 MAT, in contrast, is able to sell both fence posts
17 and fencing and delivery both products in one container
18 load. And, as a result, this type of efficient shipping is
19 better suited to Home Depot's demand. They would prefer to
20 have both fence post and fencing come together, because they
21 are going to be sitting next to each other on a shelf, when
22 you go into Home Depot. It doesn't make sense to have two
23 separate suppliers, one selling fence posts and one selling
24 fencing, and to try and coordinate all the invoicing and the
25 logistics for each supplier. MAT is a better supply option,

1 because they have a broader product mix and can handle the
2 logistics that is better suited to Home Depot's overall
3 needs.

4 Second, production capacity, a Home Depot or other
5 home center would want a supplier, who can meet their volume
6 requirements. Given the number of stores around the
7 country, they would want to be sure that whatever supplier
8 of U post that they select would have the capacity to meet
9 their demands for all their stores. Given the limited
10 production capacity of Steel City, it's unlikely that Home
11 Depot has ever considered Steel City to be an adequate
12 supply option, regardless of the pricing terms.

13 This morning, petitioners have said that absent
14 any imports, they feel that they are capable of supplying
15 the entire demand of the U.S. market, including Home Depot,
16 Lowe's, and Menards. I feel that claim is not credible and
17 we urge the Commission to go to Home Depot, Lowe's, and
18 Menards, and ask them whether they feel this is a valid
19 claim or not.

20 Third, another non-price factor that affects home
21 centers' supplier selection is quality. Quality is an odd
22 characteristics, because, first of all, it's just a fence
23 post. The fence posts that were passed around, you know,
24 admittedly looked the same. But talking with our guys,
25 we're surprise to learn that there are actually quality

1 differences that do make a difference to a buyer like Home
2 Depot, Lowe's, or Menards.

3 Yes, they are all green. Yes, they are all the
4 same height. Yes, they are shaped the same. But, one
5 significant quality characteristics apparently is the metal
6 plate that's attached at the bottom there. The metal plate
7 is supposed to prevent the post from twisting once it's
8 placed in the ground. Our guys have told me that the fact
9 that the imported metal plates are riveted onto the post is
10 much better from a quality perspective, than the metal plate
11 just being stamped on or crimped on to the post. They feel
12 that the rivet is providing more stable bond to the post
13 that would -- is better for preventing twisting of the post.

14 Another quality factor is the fact of the paint
15 quality. The imported paint is powder based. The manner of
16 applying a powder based paint is -- leads to a better finish
17 that is apparently more durable. Our folks have said that,
18 Home Depot has said that the paint quality is superior to
19 the domestic products paint quality. That is an additional
20 factor why they chose imports over the petitioner's product.

21 The fact that Chinese import quality is better
22 than the U.S. product quality is unusual. I'm usually up
23 here saying -- trying to defend the Chinese product, even
24 though the quality is not as good. This is one case where I
25 can say, the Chinese product is a better quality and that is

1 a factor why the U.S. consumers are buying our product and
2 it is not just a priced based decision.

3 In terms of petitioner's financial performance,
4 the petitioner has submitted financial statements. We just
5 -- given the lack of clarity, in terms of the like product
6 definition, we urge the Commission to closely examine
7 whether the reporting of petitioner's financial performance
8 is accurate or not. Given that they are producing, in
9 addition to U post, other products, products that are above
10 one pound per foot, mail posts, mailboxes, and other goods,
11 we urge the Commission to closely examine whether the
12 financial performance is limited exclusively to just U post
13 or whether there is some shifting of costs inappropriately
14 for -- that should be allocated more to non-subject
15 merchandise.

16 This is a -- one of the few cases that the
17 Commission looks at, where the U.S. industry is the distinct
18 minority of the market. In most cases, imports are just a
19 small segment of the overall market and the U.S. producers
20 are the dominant players. In this case, it's the flip side.

21 The petitioners have acknowledged that demand has
22 increased over the past few years, because of the presence
23 of Home Depot. They are the ones that are causing increased
24 demand. I submit that this case is more about the effect
25 that Home Depot and Lowe's is having on the marketplace, the

1 fact that Home Depot and Lowe's and Menards are driving out
2 the smaller mom and pop hardware stores. They are the one -
3 - it's the -- given that the purchasers are changing, the
4 landscape of the market is changing, in the way that the
5 home centers are the driving force in this market.

6 If they are the ones, who are going to dictate,
7 you know, where the U posts are coming from, you have to
8 look at what criteria they are using in making their
9 purchasing decisions. Given the reasons that I stated
10 earlier, I believe that non-price factors, such as product
11 mix, product quality, supply reliability, production
12 capacity, and product quality are all reasons why home
13 centers would choose imports over the domestic suppliers and
14 that price is not the overarching factor, in this case.

15 Given the fact that there is no significant
16 adverse volume effect, there are no significant adverse
17 price effects, and there is no causal link between subject
18 imports and the condition of the domestic industry, we feel
19 that the Commission has sufficient grounds to vote negative
20 in this preliminary stage of the investigation.

21 That concludes my testimony. If you have any
22 questions, I'd be happy to answer them.

23 MR. FEATHERSTONE: Thank you, Mr. Lee. Mr.
24 Ruggles?

25 MR. RUGGLES: Mr. Lee, the questionnaire response

1 of Midwest Air Technologies is where?

2 MR. LEE: It should be submitted today. The
3 person, who has been in charge of compiling the data, has
4 been in and out of the office is working on it. And there
5 were some discrepancies in the numbers that were being
6 reported and we are reconciling them, to make sure that it's
7 just U post, as opposed to T post. And we are hoping to get
8 those in today, definitely by the end of the week.

9 MR. RUGGLES: Thank you.

10 MR. FEATHERSTONE: Mr. Chen?

11 MS. CHEN: Given your earlier testimony regarding
12 the domestic like product, namely that you agree, for
13 purposes of this investigation with the proposed domestic
14 like product definition of the petitioner, do you, also,
15 agree with the petitioner's argument regarding who should be
16 included in the domestic industry?

17 MR. LEE: That is a tricky question, because we
18 acknowledge that there is -- given that the like product
19 could be expanded and if there's -- if this was a final
20 investigation, I would probably say it should be expanded.
21 I would say that if you do go to a final, I think it would
22 be worth the Commission's efforts to expand the domestic
23 industry. There are a good number of T post producers out
24 there, that certainly could be producing U posts. The fact
25 that T posts are priced so much lower than U posts indicates

1 that the T post producers would have tremendous incentive to
2 get into the U post market, if all of a sudden all the
3 Chinese U post imports were taken out of the market. Why
4 wouldn't a T post producer start producing U posts and get a
5 higher price for their product?

6 So, at this point, I would say that, yes, the
7 domestic industry should, at this point, be just Steel City.
8 But, if you do go to a final determination and we're back
9 here again down the road, I think the Commission would be
10 well warranted to expand the domestic industry definition,
11 as well.

12 MS. CHEN: Are there any related parties issues --
13 issues here?

14 MR. LEE: Not to my knowledge.

15 MS. CHEN: Could you please discuss, in your post-
16 conference briefs, what you believe the appropriate
17 conditions of competition are? I know you had stated
18 specifically certain things that you would like the
19 Commission to consider. If you could please elaborate on
20 that, in your brief?

21 MR. LEE: Sure.

22 MS. CHEN: To your knowledge, is there any type of
23 business cycle that this product goes through, besides what
24 was said earlier?

25 MR. LEE: I think I would agree, generally, that

1 the main season is the March through June season. I would
2 note that there is not the extent of warehousing that
3 petitioners speculated. Home centers do not like to have
4 huge buildups of inventories in their warehouses. I think
5 they, too, are trying to limit their warehousing costs and
6 so, they are seeking shipments direct to the stores and
7 they're trying to avoid warehousing costs. So, to our -- to
8 my knowledge, subject imports would, for the most part,
9 correspond to the March-June season that petitioners have
10 identified.

11 That being said, our guys have also noted that in
12 locations that do have considerable snow amounts, there is a
13 certain portion of U posts that are sold to like ski resorts
14 or things like that, that do have a -- are used to build
15 snow fences, to keep that out. So, there is an additional
16 segment that is occurring in the later half of the year,
17 probably November through January, February. But, it is
18 significantly smaller than the main March through June
19 season.

20 MS. CHEN: Does Midwest Technologies order
21 products in anticipation of demand or as customers place
22 orders?

23 MR. LEE: It's generally as customers place
24 orders.

25 MS. CHEN: Could you further address in the post-

1 conference brief the breakdown between big or large
2 retailers, such as Lowe's, Menards, and these smaller
3 hardware stores that your -- that Midwest Technologies sells
4 to? I mean, you were stating in your testimony earlier
5 today that that has caused these large hardware stores, you
6 know, one stop shopping has shortchanged the market
7 considerably. Can you further elaborate on --

8 MR. LEE: Yeah.

9 MS. CHEN: -- your customer base?

10 MR. LEE: I think so. I think, in terms of the
11 demand conditions, the fact that the home centers are able
12 to demand not only just the volume of the U posts that they
13 require for all of their stores, but it's also that they,
14 also, require other products that they're carrying in their
15 stores, that is an important factor. The fact that those
16 other products also need significant volume is the driving
17 factor.

18 It's not like a smaller hardware store, where you
19 can buy a smaller quantity of fence posts and a smaller
20 quality of fencing, along with other lawn and garden
21 products from a broader range of suppliers. I mean, for a
22 smaller hardware store, it may make sense to have more
23 suppliers, but all geographically closer situated to your
24 store. For Home Depot, it doesn't make sense to have that
25 many suppliers, because you will want to centralize and

1 consolidate your supply options.

2 So, to the extent that you can find a supplier
3 that can provide a huge quantity of fence posts and a huge
4 quantity of fencing and a huge quantity of other types of
5 fencing and fence posts, that creates an advantage for Home
6 Depot and Menards and Lowe's, that a smaller supplier, that
7 has a more limited product range, just can't match. And the
8 fact that Home Depot and Lowe's is essentially the driving
9 force behind any increase in the demand for home and garden
10 and do-it-yourself products, they are the ones, who are
11 dictating that demand. If the domestic suppliers can't
12 match the requirements demanded by Home Depot, they really
13 aren't in the same market segment as the subject imports.

14 So, there may be -- the fact that Home Depot has
15 such different demand requirements than the smaller mom and
16 pop hardware store, suggests that there is a disconnect in
17 the subject imports and the effect that the petitioners are
18 claiming.

19 MS. CHEN: What is your position on the current
20 condition of the domestic industry? Do you agree with the
21 petitioner, that the domestic industry is suffering
22 financially?

23 MR. LEE: Based on the figures reported, we're not
24 necessarily sure that this is all attributed to their fence
25 post operations. They are producing other products:

1 mailbox, mailbox posts, their newspaper boxes, things like
2 that. We're not entirely convinced -- they are bleak
3 numbers, but we're not necessarily convinced that this is
4 entirely due to their fence post operations.

5 MS. CHEN: Could you please address all the
6 statutory threat factors in your post-conference brief?

7 MR. LEE: Sure.

8 MS. CHEN: Thank you. Nothing further.

9 MR. FEATHERSTONE: Ms. Pedersen?

10 MS. PEDERSEN: (Shaking head.)

11 MR. FEATHERSTONE: Mr. Tsuji?

12 MR. TSUJI: Yes. Question about -- have Buy
13 America or Buy American provisions had any impact on MAT's
14 business?

15 MR. LEE: To my knowledge, I don't think so. I
16 can check with them. But, my understanding is Buy America
17 is not relevant to this product.

18 MR. TSUJI: Okay. And in your post-conference
19 brief, could you elaborate a bit on the distribution of the
20 imported fence posts versus those of the domestic fence
21 posts, that --

22 MR. LEE: In terms of --

23 MR. TSUJI: -- in terms of different --

24 MR. LEE: -- market segments, like --

25 MR. TSUJI: -- market segments, exactly,

1 similarities, differences.

2 MR. LEE: Sure. I'd be happy to. And I think a
3 significant portion of MAT's imports are going to the home
4 centers. They were a little surprised to see this case,
5 because they really didn't see petitioner's product being
6 compared against theirs with their customers. So, they
7 recognize that, yes, it is just a fence post, but they said
8 they really weren't at the home center level. So, you know,
9 that seems to suggest that there is a different market
10 segment. You do have the bigger home centers versus the
11 smaller customers that petitioners are selling to.

12 MR. TSUJI: Okay. And, also, I would like to make
13 that same request of the petitioners, as well. No further
14 questions.

15 MR. FEATHERSTONE: Mr. Yost?

16 MR. YOST: I have no questions.

17 MR. FEATHERSTONE: Ms. Noreen?

18 MS. NOREEN: Bonnie Noreen with the Office of
19 Investigations. Mr. Lee, these -- have you had an
20 opportunity to look at these fence posts back there?

21 MR. LEE: Briefly, yes.

22 MS. NOREEN: And the imported ones, are they your
23 --

24 MR. LEE: I do not know specifically where they
25 are. I'm taking at face value that they are Chinese

1 imported fence posts. I do not know the specific supplier.

2 MS. NOREEN: But, do your fence post -- your
3 client's fence post look the same as those, so they could be
4 yours?

5 MR. LEE: I haven't actually seen --

6 MS. NOREEN: You haven't actually seen them, okay.

7 MR. LEE: Our client is in Chicago and they
8 haven't -- they weren't able to make it out for the
9 conference.

10 MS. NOREEN: Okay.

11 MR. LEE: And shipping a fence post to us was not
12 cost effective, I guess.

13 MS. NOREEN: Does your client import other sizes
14 of fence posts though? Do they import the T post?

15 MR. LEE: They do import T post and that is
16 actually one of the reasons why there is a delay in getting
17 the questionnaire responses. I think they were sorting out
18 the data between T post and U post and there was a mixup, in
19 terms of how they were supposed to report that.

20 MS. NOREEN: Okay. Your clients are aware that
21 regardless of whether it's a T post or it's a U-shaped post,
22 the distinction is whether or not it's --

23 MR. LEE: One pound --

24 MS. NOREEN: -- one pound and under --

25 MR. LEE: Right.

1 MS. NOREEN: -- or over one pound?

2 MR. LEE: Yes, they are aware.

3 MS. NOREEN: Okay. Does your client import any T
4 posts that are under one pound?

5 MR. LEE: I do not believe so, at this point.

6 MS. NOREEN: Do they import any U-shaped posts
7 that are over one pound?

8 MR. LEE: I'm not sure about that. I don't
9 believe so, but I do need to check with them.

10 MS. NOREEN: Okay, thank you. Do you have any
11 feel, and I recognize you can answer this in your post-
12 hearing brief, but I'm just wondering if publicly, you can
13 state whether or not there are any other major players in
14 the market, that are importing from China or anyplace else,
15 besides your company?

16 MR. LEE: I think I would prefer to address that
17 in the post-conference brief, because that is the type of
18 information that does tend to be sensitive to our clients.

19 MS. NOREEN: Okay. If there are the names of any
20 other Chinese importers that you know of out there, I would
21 appreciate it if you would notify the staff prior to your --

22 MR. LEE: Sure.

23 MS. NOREEN: -- post-hearing brief, so we -- time
24 is kind of of the essence.

25 MR. LEE: Absolutely.

1 MS. NOREEN: Now, in terms of your questionnaire
2 response, you said maybe tomorrow, maybe today, maybe --

3 MR. LEE: We're hoping to get it in today. I'm
4 going to go back to see if it's arrived.

5 MS. NOREEN: Okay.

6 MR. LEE: I have been urging them to get it in.

7 MS. NOREEN: And it's not going to be Thursday or
8 Friday, then, is it?

9 MR. LEE: Hopefully not; hopefully not. But, the
10 staffing at MAT has been -- they've been moving some
11 offices, so the people have been sort of influx. So, I have
12 urged them to try and put this at the top of their priority
13 list.

14 MS. NOREEN: Okay. That's good, because, of
15 course, I think the briefs are due on Monday, isn't it --
16 Tuesday, Tuesday -- holiday Monday, due on Tuesday.

17 MR. LEE: They understand that the sooner that
18 they get the data, the more complete your database will be
19 and they need -- you need a complete database, in order to
20 hopefully vote negative and without a complete database,
21 they can't vote negative. So, the -- our clients understand
22 that they control their destiny by submitting their
23 questionnaires in a timely manner.

24 MS. NOREEN: Okay. Thank you. I just have one
25 more question, then. You said that this is an example of a

1 Chinese product that's imported into the United States, but
2 is actually a higher quality than the domestic produce that
3 it's competing with. And I'm wondering just -- I normally
4 think of a quality product as something that a consumer
5 would be willing to pay a higher price for. And I would
6 think that the person, who is selling it, would want to get
7 the highest price they can, because that's usually --

8 MR. LEE: Sure.

9 MS. NOREEN: -- what you want to do is sell at the
10 highest price you can. So, I'm just wondering why a product
11 that is a better quality would be selling apparently fairly
12 consistently at 15 to 20 percent below the domestic price.

13 MR. LEE: Part of it may be sort of due to the
14 market power that Home Depot or the home centers commands,
15 in this marketplace. Another factor is sort of the history
16 of that relationship, that the home centers have over their
17 suppliers. I don't think that the Chinese suppliers were
18 always considered the better quality supply source, in this
19 particular industry. So the fact that, traditionally, if
20 they were considered a supplier of inferior quality product,
21 that may have created a starting point for their pricing to
22 be lower than the domestic -- than the domestic product.

23 Over time, as the quality improved, I believe
24 pricing has improved. It may not have reach the point where
25 it's higher than where the domestics are priced; but from

1 the starting point of where the Chinese pricing was, when
2 they were still lower quality suppliers, it is significantly
3 higher than from when they were earlier.

4 So, I think the relevant comparison that Home
5 Depot is making, in terms of their negotiation with Chinese
6 suppliers, that, yes, your quality is better, but we are not
7 going to pay that much higher over what we were paying you
8 two years earlier. So, it's the relative comparison to what
9 the Chinese producer was dealing with the home centers,
10 rather than what the price for the Chinese product was,
11 compared to the U.S. product.

12 MS. NOREEN: I just have one more, sorry. When
13 you deal with Home Depot, when you negotiate with Home Depot
14 for your pricing, is it done for the fence post, itself, per
15 se, or is it done as part of a package that includes not
16 only the fence, the U-shape, but also the Ts, the larger
17 shapes, the fence material?

18 MR. LEE: I think I'd prefer to address this in
19 the post-conference brief.

20 MS. NOREEN: That will be fine. I have no more
21 questions.

22 MR. FEATHERSTONE: Thank you, very much, Mr. Lee.
23 We'll -- no other witnesses want to present? We'll now take
24 a short break for -- before closing statements. Is five
25 minutes enough? Would you like 10, Ms. Stras?

1 We'll take a 10-minute break. We'll resume at
2 11:30, by the clock here.

3 (Whereupon, a brief recess was taken.)

4 MR. FEATHERSTONE: Welcome back, Ms. Stras.

5 MS. STRAS: Thank you. I have a few comments to
6 rebut Mr. Lee's testimony. First, we agree, this is not a
7 big case. This is not a Section 201 case, the kind of cases
8 you guys are used to seeing, especially recently. This is a
9 small case relatively, with a small industry, but it's a big
10 case to this company. This is a life and death struggle for
11 their manufacturing of lawn and fence posts. The company is
12 in dire straights.

13 Our petition might not be perfect. Commerce has
14 determined that it is sufficient. It has met the criteria.
15 They have initiated the case. I think you could criticize
16 any petition in any case, if you get really down to it.

17 Steve went through the criteria that is required
18 in his testimony and I ask you to refer to that, why we
19 think that these three posts -- I'm sorry, four posts are
20 not the same. I ask you to use your commonsense. Look at
21 them.

22 As a consumer, I would not use a T post to hold up
23 my little fence, in my garden. If it -- first, I can't lift
24 it and I can't carry it and I can't bang it into the ground,
25 which is required. And if it fell on my flowers or my

1 tomatoes or my pet or my kid, there would be great bodily
2 harm or destruction. You can't use one for the end uses of
3 the other. I ask you, on top of the statutory criteria,
4 which we have addressed, we will once again address in our
5 post-hearing brief, I ask you to use your commonsense.

6 Mr. Lee, also, claimed that we have not proved
7 price impact. We have loss sales in the petition, our loss
8 sales allegations. And Bob sat right here next to me, what
9 was it, an hour ago, telling you about their experiences
10 with Lowe's. They went to Lowe's over and over. They were
11 Lowe's customer provider. Lowe's was their customer for
12 many years. It wasn't Gilbert and Bennett. It was Steel
13 City. They went to the customer over and over and were told
14 they were 15 to 20 percent too high to get the business.

15 I was very surprised at Mr. Lee's statement that
16 he does not challenge the like product definition; yet, he
17 questioned everything else. He questioned the size of the
18 U.S. market. The questioned the like product definition,
19 even though -- then he said he doesn't question it. He
20 questioned import volumes. I -- all of this, to me, means
21 that there -- this case should be continued.

22 I, also, wanted to address his disparagement of
23 our import data; yet, he latched onto a price -- our price
24 data. We got the import data and the price data from the
25 same Web site. You can't -- I think he's cherry picking.

1 He's saying our import data is invalid, yet our price data
2 is valid. It certainly requires further investigation, at a
3 minimum.

4 We, also, want to address the fact that Steel City
5 can also ship several products to Lowe's and other
6 customers. Attached to the petition is our brochures, Steel
7 City's brochures, and you can see that they make a lot of
8 products. That's why they're still in business, because
9 they make the mailboxes and the other hardware products in
10 the brochures. They can ship multi, multi products to their
11 customers, and they do. So, I -- Mr. Lee's argument is,
12 again, invalid. They can and do ship multi products to
13 their customers.

14 Regarding the quality issues, I've been involved
15 in several Chinese cases and I was a little -- I thought I
16 wasn't hearing too well, when I heard him say that their
17 posts are better quality. That's very unusual in a Chinese
18 case. This may be the first case -- you guys are better
19 judges than I am, but this may be the first case where the
20 argument goes the other way.

21 We, of course, disagree. When Lowe's -- when Bob
22 met with Lowe's and tried to get their business for many
23 years, they told him it was price. Their quality has never
24 been questioned. It's always been price, price, price.

25 If you look at these posts, they're identical.

1 They look identical. The paint looks identical. The
2 product looks identical. As a consumer, I can't tell the
3 difference and the buyers, there is no difference. There is
4 no quality difference.

5 Also, this issue of the quality difference being
6 because one plate is riveted and one plate is crimped. I'd
7 like to address that. And we have -- and I'd like to show
8 you -- pass you the samples. Can I have those two samples?

9 (Pause.)

10 MS. STRAS: This is a Steel City plate and this is
11 crimped. This is what they call crimped. And I ask you to
12 look at this plate, because it's a big black plate that goes
13 into the ground, and the large plate keeps it into the
14 ground. And I ask you to look at the Chinese plate. Now,
15 this is riveted, which means there are two screws here. I
16 ask you to look at the plate. It is a smaller plate and it
17 is not a flat plat, so it will more likely bend and twist.
18 So, his argument is totally invalid.

19 If you look -- if you look at the riveting versus
20 the crimping argument, we have the better product. However,
21 as a consumer, if I go into the store or if you go into the
22 store, I don't think you're going to know the difference,
23 because they're both going to be used for the same purpose.
24 Both of these posts will go into the ground and hold up your
25 little fence, to contain your pet or your flowers or your

1 tomato plants.

2 Again, I think Ms. Noreen said it very well. I
3 couldn't have said it myself better. If it's such a high
4 quality Chinese product, why is it being sold so cheap? Why
5 is it being sold at 15 to 20 percent lower than Steel City
6 can sell it? It's not.

7 While we believe that all of Mr. Lee's arguments
8 are invalid, at a minimum, Mr. Lee has raised issues that
9 require this investigation to continue. Thus, for all the
10 reasons in our petition, in our testimony here today, in our
11 rebuttal, we ask you to find that there is a reasonable
12 indication that our domestic industry is materially injured
13 or threatened with material injury. Thank you.

14 MR. FEATHERSTONE: Thank you, Ms. Stras.

15 MR. FEATHERSTONE: Welcome back, Mr. Lee.

16 MR. LEE: Thank you. I think one key factor in
17 this case that needs to be addressed is burden of proof.
18 There are significant issues regarding the reliability of
19 the data presented, regarding volume, price, and impact.
20 But, an initial issue that has to be raised is what is
21 petitioner's burden, in terms of coming forward with
22 credible evidence, regarding the adverse volume effects, the
23 adverse price effects, and the causal link that subject
24 imports have had on the domestic industry.

25 We submit that there are significant questions

1 that raise significant concerns that petitioner hasn't met
2 that initial threshold burden. We have raised questions
3 regarding the data, regarding volume, price, and the
4 financial performance of petitioners, to highlight those
5 flaws. But, even if you accept the data, flaw though it may
6 be, and identify, you know, the portions that may or may not
7 actually be valid, but assume they are valid for purposes of
8 this analysis, we feel that even that data is insufficient
9 to establish an affirmative injury or threat determination.

10 We think that the volume issue is particular
11 vulnerable, because petitioners never even asserted what the
12 total market of the -- the U.S. market for U post is. I
13 mean, they don't even claim that they're losing market
14 share, because they don't define what -- how big the U.S.
15 market is. They don't define how much subject imports have
16 actually come in, because all they can point to are basket
17 categories. I think the Commission has recognized that
18 basket categories from the import stats are a non-reliable
19 basis and that, you know, they would not necessarily want to
20 continue an investigation based on basket category data.

21 Pricing, the best information that we have here is
22 what the petitioners have offered. We don't -- we think
23 that there are potentially significant flaws in the pricing,
24 because it, too, is based on the import stats. But, even
25 there, if you take them at face value, the pricing does not

1 show any decreases. Where are the adverse price effects
2 from subject imports? Petitioner's own data evince that
3 there are no adverse price effects.

4 And then in terms of the financial performance of
5 the domestic producers, they don't -- they acknowledge that
6 they have other products there, but they don't -- I'm not
7 sure that their financial data is necessarily broken out to
8 just U posts. There are significant issues that other
9 products may be blended into the financial performance data.

10 So, we feel that given that the significant flaws
11 of the data at volume, price, and impact, we feel that the
12 Commission should consider very strongly -- do you want to
13 establish a precedent that the petitioner has to -- can come
14 forward with a petition that is so flawed and peppered with
15 data flaws, but still the investigation can go forward?
16 Yes, the preliminary investigation standard is low, but we
17 urge the Commission to consider just how low do they want
18 that standard to go.

19 In terms of the quality difference, they pointed
20 to the fact that, as an end consumer, the ultimate consumer
21 of the fence post probably can't tell the difference. I
22 admit that's true. I wouldn't be able to tell the
23 difference which fence post is better or not. But to a more
24 discriminatory buyer, such as a buyer from a home center,
25 they're the ones, who are ultimately the true buyers of this

1 product. They are the ones, who are the experts. A buyer
2 from Home Depot probably knows more about electric tools,
3 fencing, and everything else far beyond what I would ever
4 care to know. But, nevertheless, they are the experts and
5 they're the ones, who have told my client, MAT, that our
6 product has a better quality, because the riveting.

7 Yes, the Steel City product has a broader plate.
8 I don't know if necessarily a broader plate is better,
9 because if the attachment point on the post is not as
10 strong, the broader plate, from a physical standpoint, may
11 actually make it easier to twist off, because if you stick
12 your hands out, it's like pushing on a door. If you press
13 on the outer range of it, there's more force that will
14 likely snap off from the connecting point, if that
15 connecting point isn't strong enough. So, although the
16 plate of the imported product may be smaller, I think the
17 riveting establishes a stronger connecting point, that does,
18 in the end, lead to a higher quality for stability purposes.

19 With regard to pricing and the quality issue and
20 what effect the home centers have on the marketplace, I
21 think that really does become the key issue. What affect --
22 what type of control does a home center have, in terms of
23 pricing? If there is such a disparate gap in the pricing
24 between imports and the domestic product, is that evidence
25 that domestic suppliers really aren't a viable supply option

1 for the home centers? We feel that, yes; that the answer
2 is, yes, that the home centers, like Home Depot, Lowe's, and
3 Menards, do not consider Steel City to be a viable or
4 adequate supply option, because they don't have sufficient
5 product mix that's broad enough and large enough to meet
6 their overall demands.

7 So, in the end, I think the petition has failed to
8 meet the statutory criteria of volume, price, and impact.
9 Accordingly, we urge the Commission to vote negative and
10 determine that the domestic industry is not materially
11 injured or threatened with material injury by reason of the
12 subject imports. Thank you, very much.

13 MR. FEATHERSTONE: Thank you, Mr. Lee. Just a
14 couple of administrative reminders: the deadline for the
15 submission of corrections to the transcript and briefs in
16 this investigation is next Tuesday, May 28th. If briefs
17 contain business proprietary information, a non-proprietary
18 version is due the following day, May 29. The Commission
19 has scheduled its vote on the investigation for 2:00 p.m.,
20 on June 17th, and it will report it's determination to the
21 Secretary of Commerce later that day. Commissioner's
22 opinions will be transmitted to Commerce and place in the
23 public record a week later, on June 24th.

24 Thank you, again, for your participation. This
25 conference is adjourned.

1 (Whereupon, at 11:46 a.m., the preliminary
2 conference was adjourned.)

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CERTIFICATION OF TRANSCRIPTION

TITLE: LAWN AND GARDEN STEEL FENCE POSTS FROM CHINA
INVESTIGATION NO.: 731-TA-1010 (Preliminary)
HEARING DATE: May 22, 2002
LOCATION: Washington, DC
NATURE OF HEARING: Preliminary Conference

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

DATE: May 22, 2002

SIGNED: LaShonne Robinson
Signature of the Contractor or the
Authorized Contractor's Representative
1220 L Street, N.W. - Suite 600
Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

SIGNED: Lorenzo Jones
Signature of Proofreader

I hereby certify that I reported the above-referenced proceeding(s) of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceeding(s).

SIGNED: Beth Roots
Signature of Court Reporter